

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2022 MAR 17 AM 11:28

CLERK
BY EA
DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

FRIENDS OF PINE STREET, d/b/a
PINE STREET COALITION,

Plaintiff,

v.

THOMAS D. EVERETT, in his capacity as
Executive Director of the Federal Highway
Administration; JOE FLYNN, in his capacity
as Secretary of the State of Vermont Agency of
Transportation; and MIRO WEINBERGER, in
his capacity as Mayor of Burlington,

Defendants.

Case No. 5:19-cv-00095-gwc

JOINT MOTION FOR ENTRY OF STIPULATED SCHEDULING ORDER

The parties to the above-captioned action, by and through their undersigned counsel, hereby move the Court to approve and so-order the schedule set forth below. In support of this joint motion, the parties respectfully submit as follows:

As discussed in defendant Thomas D. Everett's Status Report of February 15, 2022 (ECF Doc. No. 18), nonparty Fortieth Burlington, LLC ("Fortieth Burlington") has advised that it wishes to intervene as a plaintiff in this action, and Friends of Pine Street ("Plaintiff") wishes to file a second amended complaint. Because the filing and resolution of a motion to intervene could significantly impact the scheduling of other filing events in this action, and because the contours and merits of a motion to intervene may depend on the contours of the second amended complaint that Plaintiff seeks to file, the parties respectfully request that the Court approve and so-order the following schedule:

1. On or before May 16, 2022, Plaintiff shall file a motion for leave to file a second amended complaint, or a second amended complaint to which all defendants consent, pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure and, if necessary, Local Rules 15. In the event that Plaintiff proceeds by motion, any responses thereto shall be filed within 30 days, and Plaintiff shall have 15 days in which to file a reply to any response.
2. Within 60 days of Plaintiff filing a second amended complaint (either with leave of the Court or the consent of all defendants), each defendant shall, if named therein, file a response thereto.
3. Within 21 days of Plaintiff filing a second amended complaint (either with leave of the Court or the consent of all defendants), putative intervenor Fortieth Burlington may file a motion to intervene in this action as a plaintiff pursuant to Rule 24 of the Federal Rules of Civil Procedure. Any responses to that motion shall be filed within 30 days, and Fortieth Burlington shall have 15 days in which to file a reply to any response.
4. If the Court permits Fortieth Burlington to intervene in this action and Fortieth Burlington thereafter files a complaint in intervention, each defendant shall, if named therein, file a response thereto within 60 days of Fortieth Burlington filing the complaint in intervention.
5. Once the pleadings in this action are closed, the parties shall, within 21 days, submit a proposed scheduling order for further proceedings in this case, to include, without limitation, dates and procedures for the submission of the administrative record and the resolution of any disputes concerning the contents of the record, as well as a schedule for the orderly sequencing and briefing of competing motions for summary judgment upon the administrative record.

The undersigned counsel prepared this motion in coordination with counsel for Fortieth Burlington, who advised that Fortieth Burlington is agreeable to the foregoing schedule.

[THIS SPACE LEFT BLANK INTENTIONALLY]

Dated in the District of Vermont, this 16th day of March, 2022.

Respectfully submitted,

HILL ATTORNEY PLLC

By: Cindy Ellen Hill
CINDY ELLEN HILL
144 Mead Lane
Middlebury, VT 05753
(802) 989-6906
lawyerhill@yahoo.com

Attorney for Plaintiff

NIKOLAS P. KEREST
United States Attorney

By: Benjamin Weathers-Lowin
BENJAMIN WEATHERS-LOWIN
Assistant United States Attorney
United States Attorney's Office
P.O. Box 570
Burlington, VT 05402
(802) 951-6725
Ben.Weathers-Lowin@usdoj.gov

*Attorney for Defendant Thomas D. Everett, in his
Official Capacity as Executive Director of the
Federal Highway Administration*

DUNKIEL SAUNDERS ELLIOT
RAUBVOGEL & HAND, PLLC

By: Jonathan T. Rose
JONATHAN T. ROSE
91 College Street
P.O. Box 545
Burlington, VT 05402-0545
(802) 860-1003
jrose@dunkielsaunders.com

*Attorney for Defendant Miro Weinberger,
in his Capacity as Mayor of the City of Burlington*

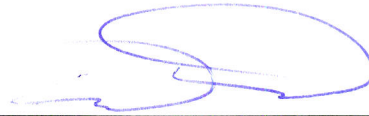
THOMAS J. DONOVAN, JR.
Attorney General

By: Leslie A. Welts
LESLIE A. WELTS
Senior Assistant Attorney General
Vermont Agency of Transportation
219 North Main Street, Suite 201
Barre, Vermont 05641
(802) 490-6103
Leslie.welts@vermont.gov

*Attorney for Defendant Joe Flynn, in his capacity as
Secretary of the Vermont Agency of Transportation*

APPROVED AND SO ORDERED.

Dated at Burlington, in the District of Vermont, this 17th day of March, 2022.



HON. GEOFFREY W. CRAWFORD, Chief Judge
United States District Court